

**IN THE COURT OF APPEALS**  
**FIRST APPELLATE DISTRICT OF OHIO**  
**HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-080456
	:	TRIAL NO. B-0709763
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
CARMELLA DULEY,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.<sup>1</sup>

Defendant-appellant Carmella Duley appeals her aggregate sentence of 23 years' incarceration for two counts of aggravated vehicular assault,<sup>2</sup> failing to comply with an order of a police officer,<sup>3</sup> possession of heroin,<sup>4</sup> and failing to stop after an accident.<sup>5</sup> Following Duley's guilty plea, the remaining charges were dropped, and the court convicted and sentenced her to a 23-year term of incarceration as follows: eight years' incarceration for one count of aggravated vehicular assault and five years' incarceration for the other aggravated-vehicular-assault count, five years' incarceration for failing to comply with a police order, one year of incarceration for possessing heroin, and one year of incarceration for failing to stop after an accident.

In November 2007, the police were called about Duley and three others due to a suspicion that they had been using heroin inside of a vehicle that was located in the parking lot of a local grocery store. Police responded and Duley drove away. Police

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<sup>1</sup> See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

<sup>2</sup> R.C. 2903.08(A)(1).

<sup>3</sup> R.C. 2921.331(B).

<sup>4</sup> R.C. 2925.11(A).

<sup>5</sup> R.C. 4549.02.

observed Duley violate multiple traffic laws, and they attempted to stop her multiple times. Duley kept driving and eventually rammed into another vehicle in which an eight-year-old girl was riding. And that vehicle struck a police cruiser, injuring an officer. The girl and the officer suffered severe injuries.

In her appeal, Duley argues only that her 23-year sentence was disproportionate to comparable cases involving the same or similar offenses.

In applying *State v. Foster*<sup>6</sup> to an existing statute, we first decide whether the sentencing court complied with applicable rules and statutes and whether the resulting sentence was clearly and convincingly contrary to law.<sup>7</sup> If the sentence was not contrary to law, then we review it under an abuse-of-discretion standard.<sup>8</sup>

Duley's sentence fell within the applicable statutory ranges. We therefore decide whether the trial court abused its discretion in sentencing Duley to 23 years' incarceration.

The trial court noted that Duley had ignored repeated instructions for her to stop, that her actions had devastated the victims' lives both emotionally and physically, that the families had suffered, and that she was an unremorseful and unreformed recidivist and a heroin addict. The sentence was supported by the evidence and the court considered the applicable statutes.<sup>9</sup> Consequently the trial court did not abuse its discretion. Accordingly, the trial court's judgment is affirmed.

A certified copy of this judgment entry is the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

**HILDEBRANDT, P.J., PAINTER and DINKELACKER, JJ.**

*To the Clerk:*

Enter upon the court's journal on May 6, 2009  
by order of the court \_\_\_\_\_.

Presiding Judge

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<sup>6</sup> 109 Ohio St.3d 1, 2006-Ohio-856, 845 N.E.2d 470.

<sup>7</sup> *State v. Kalish*, 120 Ohio St.3d 23, 2008-Ohio-4912, 896 N.E.2d 124.

<sup>8</sup> *Id.*

<sup>9</sup> *State v. Weitbrecht*, 86 Ohio St.3d 368, 1999-Ohio-113, 715 N.E.2d 167; see, also, *State v. Logan*, 8<sup>th</sup> Dist. No. 91323, 2009-Ohio-1685.